

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN MEREDITH LOCKRIDGE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48720

FILED

APR 06 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Ruben*
CHIEF DEPUTY CLERK

This is an appeal from a district court order dismissing appellant's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

On January 28, 2005, appellant Steven Meredith Lockridge was convicted, pursuant to a jury verdict, of one count of battery upon an officer in a place of confinement. The district court sentenced Lockridge to serve a prison term of 29 to 72 months to run consecutively to the sentence imposed in district court case no. CR03-2779. Lockridge filed a direct appeal, and this court affirmed the judgment of conviction.¹ The remittitur issued on June 28, 2005. Subsequently, on September 20, 2005, the district court entered an amended judgment of conviction to correct Lockridge's sentence, reducing the minimum prison term imposed to 28 months in order to comply with NRS 193.130(1).

On June 30, 2006, Lockridge filed a proper person post-conviction petition for a writ of habeas corpus. The district court appointed counsel to represent Lockridge, and counsel filed a supplement

¹Lockridge v. State, Docket No. 44735 (Order of Affirmance, June 1, 2005).

to the petition. The State filed a motion to dismiss the petition, and Lockridge filed an opposition to the motion to dismiss. Without conducting an evidentiary hearing, the district court dismissed the petition.

Lockridge contends that the district court erred in dismissing his petition as untimely without conducting an evidentiary hearing. Specifically, Lockridge alleges that his petition was timely because prison records indicate that he mailed his petition within the one-year time period set forth in NRS 34.726(1) and his petition was filed within one year of the entry of the amended judgment of conviction. We disagree.

Lockridge's petition was untimely because it was filed more than one year after this court issued the remittitur in his direct appeal.² The relevant date for determining the statutory period for a timely post-conviction habeas petition is the date in which it is filed in the district court, not the date the petition is delivered to prison officials.³ Further, the entry of the amended judgment of conviction in this case did not restart the statutory period in which Lockridge had to file his post-conviction petition.⁴

Because Lockridge's petition was untimely, it was procedurally barred absent a demonstration of good cause for the delay

²See NRS 34.726(1).

³See Gonzales v. State, 118 Nev. 590, 53 P.3d 901 (2002) (declining to extend the "mailbox rule" to the filing of a habeas corpus petition).

⁴See Sullivan v. State, 120 Nev. 537, 540-41, 96 P.3d 761, 764 (2004).

and actual prejudice.⁵ To establish good cause, Lockridge alleges "it wasn't until he wrote a letter to the court clerk that he was informed [that] the Order of Affirmance and Remittitur was issued in his case," and he was "blindsided with this news and had to rush to submit his habeas petition."

"[G]ood cause necessary to overcome a procedural bar must be some impediment external to the defense."⁶ An allegation of ineffective assistance of counsel does not constitute good cause because such a claim does not involve an impediment external to the defense.⁷

We conclude that the district court did not err in determining that Lockridge failed to demonstrate good cause. This court properly notified Lockridge's appellate counsel of the filing of the order of affirmance and the issuance of the remittitur in the direct appeal.⁸ To the extent that Lockridge alleges that appellate counsel failed to notify him of the resolution of his direct appeal, Lockridge failed to plead with specificity the date he learned of the resolution of his direct appeal or to explain why he could not have reasonably filed a timely petition within the

⁵NRS 34.726(1).

⁶Harris v. Warden, 114 Nev. 956, 959, 964 P.2d 785, 787 (1998).

⁷Id.

⁸See NRAP 45(c) ("Service on a party represented by counsel shall be made on counsel.").

one year period.⁹ Therefore, we conclude that the district court properly dismissed Lockridge's petition as untimely filed.

Having considered Lockridge's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

Parraguirre, J.
Parraguirre

Hardesty, J.
Hardesty

Douglas, J.
Douglas

cc: Hon. Connie J. Steinheimer, District Judge
Mary Lou Wilson
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁹See generally Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984); see also Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003).